

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Jessica L Ocasio

Write the full name of each plaintiff.

18CV9658

(Include case number if one has been assigned)

-against-
NYU Langone Medical Center
Roxana Martillo

Do you want a jury trial?

☐ Yes ☐ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES**A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

<u>Jessica</u>	<u>2</u>	<u>Orasio</u>
First Name	Middle Initial	Last Name
<u>900 Coop City Blvd apt 6H</u>		
Street Address		
<u>Bronx</u>	<u>NY</u>	<u>10475</u>
County, City	State	Zip Code
<u>(917) 723-9814</u>	<u>Jesslynn 1225@gmail.com</u>	
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1: NYU Langone Medical Center

Name

Address where defendant may be served

County, City State Zip Code

Defendant 2: Roxana Martillo

Name

Address where defendant may be served

County, City State Zip Code

Defendant 3:

Name

Address where defendant may be served

County, City

State

Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:

Name

Address

County, City

State

Zip Code

III. CAUSE OF ACTION

A. Federal Claims

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

☒ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain):

☐ race: _____

☐ color: _____

☐ religion: _____

☐ sex: _____

☐ national origin: _____

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: _____

- ☒ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: 1971

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: _____

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: _____

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status

- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status

- ☐ Other (may include other relevant federal, state, city, or county law):

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☒ terminated my employment
- ☐ did not promote me
- ☐ did not accommodate my disability
- ☒ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☐ other (specify): _____

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

See attached

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? Amended 5/7/2018

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? 9/7/18

When did you receive the Notice? 9/10/18

☐ No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

☐ direct the defendant to hire me

☐ direct the defendant to re-employ me

☐ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☐ direct the defendant to reasonably accommodate my disability

☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

The difference between my current salary and what I would be making if not for defendant's interference.

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

10/19/18
 Dated Jessica L Plaintiff's Signature Jessica L Ocasio
Jessica L Ocasio
 First Name Middle Initial Last Name
900 Coop City Blvd
 Street Address
Brnx ny 10475 apt 6H
 County, City State Zip Code
917 723-9814 Jes/you1228@
 Telephone Number Email Address (if available) Jmcau1.com

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

1. My name is Jessica Ocasio. I am a 46-year-old woman of Hispanic heritage. I identify as Latina. I speak English and Spanish.
2. From 2000 until 2016, I worked for what is now New York Presbyterian Hospital in the medical records department as a clerk.
3. On November 14, 2016, I started work in the medical records department at NYU Center for Women's Health (hereinafter "CWH") at 83rd and 3rd.
4. My salary was \$41,000 per year, working out to about \$21 per hour when accounting for vacation and sick days.
5. My job responsibilities included processing requests for medical information, specifically patient record requests from patients, medical professionals and attorneys, and patient and doctor records for audits.
6. Roxanna Martillo, a woman in her early 40s, and Erica Demint, a woman in her early 40s, interviewed and hired me.
7. I completed training from November 14, 2016 through December 9, 2016. Throughout this time, I never interacted with Ms. Martillo. Ms. Martillo did not in any way provide any of the training I received during the orientation.
8. Following the completion of this training, from December 23, 2016 until January 9, 2017, I took vacation time, as I had cleared with hiring personnel during my interview process.
9. Subsequently, ~~Ms. Martillo~~ ^{Ms. Ortega} informed me that I was going to be placed on probation for an additional month, as a result of my taking pre-approved vacation. *also, lacking training*
10. Upon my return, my supervisor, Ms. Karen Ortega went on vacation. During her absence, I was instructed to report to Barbara Williams. But, because Ms. Williams said she lacked the background, Ms. Williams directed me to Ms. Martillo.
11. Upon Ms. Ortega's return in January, I was brought into a ~~feedback~~ ^{off the record} meeting. *she* (I was reprimanded *In May 2017* for staying late on one occasion when I had been asked to help stock the kitchen, and told not to arrive early. I found this very confusing, because, during the interview, I had been asked whether

I would be willing to stay later if needed to assist a patient. Further, I knew that other, younger employees were frequently asked to come in early, or were allowed to set their own answers.

12. Micaella Ipsan, a woman I believe to be in her 20s, was allowed to come to the office as early as 5:30 and to leave at 2:00.
13. Raven Golson, an African American woman in her early 20s worked in radiology. She was given permission to come in and earn overtime pay, and to stay late to finish her work, without reprimand (either with or without overtime pay).
14. In May of 2017, Ms. Martillo was showing me how to enter authorizations into the system. When I asked a question, she said, "You remind me of my mother. Everything has to be explained to you from 1 – 2 – 3. You are that type of person."
15. From the time I was hired, I was discouraged from interacting with Ms. Martillo. I was not allowed to speak to her or ask her any questions. Other employees who were older than the average employee were also not allowed to speak to Ms. Martillo, although as our Operations Manager, she was our supervisor. These employees include Barbara Williams, a woman in her early 50s, Karen Ortega, a woman in her late 30s, and Andrea LeGree, a woman I believe to be in her late 40s or early 50s.
16. However, other colleagues, in their early 30s or younger, were allowed to and encouraged to speak with Ms. Martillo. I frequently saw Ms. Martillo interact with these employees, laughing, being polite and acting completely differently from how she treated the older employees.
17. One of my colleagues was Melissa Barragan, a woman in her late 20s. Ms. Barragan's daughter had severe health problems, resulting in poor attendance and lateness.
18. On May 17, 2017 and May 18, 2017, Ms. Barragan texted me and asked me to sign her in because she was running late. I felt badly for her, so I did it both times. Many other employees did this same thing for her.
19. On December 7, 2018, a supervisor, Susie Jean Baptiste, caught Ms. Barragan coming in late, after Ms. Barragan had signed in from home to make it look like she had entered on time.

20. That afternoon, I was called into a meeting with Ms. Martillo to investigate Ms. Barragan's attendance and how she had been signed into work when she was not present.

21. Ms. Martillo showed me the records of three employees who had signed in Ms. Barragan. She called in Ms. Baptiste as a "witness" against me.

22. I was reprimanded and told that I knew better. Ms. Martillo said she planned to recommend termination.

23. On December 14, 2017, I was notified of my termination. *escorted out by Ms. Martillo.*

24. At the same time as I was fired, Ms. Barragan was also fired. Natasha Reyes, a woman I believe to be in her 30s, was also fired.

25. I discussed the issue with Ms. Barragan. She indicated that many other employees, all younger *on Dec 7, 2017* than I am, were also signing her in throughout the time she was struggling with her daughter's illness and after. None of these employees were fired for doing so.

26. After I was fired, I immediately began looking for work. At the same time, I applied for unemployment. I indicated that I had falsified records in my unemployment application. Ms. Martillo contested my unemployment, saying I had signed in Ms. Barragan four separate occasions. These extra days are in direct contravention of the record, which shows that I only signed in Ms. Barragan twice. As a result, my unemployment benefits were terminated.

27. Throughout January and February 2018, I searched for employment. I applied for at least 20 jobs through online portals. These online systems require you to list the circumstances under which you separated from your previous position. It is my belief that, upon calling Ms. Martillo and other NYU personnel for references, I was not considered for comparable positions.

28. In February 2018, I was offered a position as an administrator in medical records for a third party vendor copy service located at St. Barnabas.

29. I am aware that the hiring committee at my current position did not check my references.

30. The position I currently hold is significantly lower than my previous position at CHW, and pays \$15 per hour.

31. Since I was terminated from CHW, and even after securing my current position, I have continued to seek employment that would be similar in responsibility and pay to the position I was terminated from. Since my termination, I have applied for about fifty jobs. I have not heard from any of these positions.
32. Meanwhile, Ms. Reyes, who is not over the age of 40, did not have trouble securing a job. On information and belief, she had secured a position with Northwell Hospital within a month of being terminated from CHW.
33. In January 2018, I filed a complaint with the EEOC. Ms. Martillo, in responding to the age discrimination complaint, said I had signed in Ms. Barragan 15 times.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

Ms. Jessica Ocasio
900 Coop City Blvd.
Apt. 6-H
Bronx, NY 10475

Re: EEOC Charge No. 520-2018-02661
Jessica Ocasio v. NYU Hospital Langone Medical Center

Dear Ms. Ocasio,

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge based upon the information and evidence you submitted. You allege you were discriminated and retaliated against, in violation of the Title VII of the Civil Rights Act of 1964, as amended.

Based on your testimony and an analysis of all the evidence submitted, the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Please contact Federal Investigator Christiana R. Doriety at Christiana.Doriety@eeoc.gov if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kevin J. Berry", is written over a horizontal line.

Kevin J. Berry
District Director

for

Sept. 7, 2018
Date

DISMISSAL AND NOTICE OF RIGHTS

To: **Jessica Ocasio**
900 Coop City Boulevard
Apt. 6-H
Bronx, NY 10475

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2018-02661

Christiana R. Doriety,
Investigator

(917) 410-4022**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Kevin J. Berry

Kevin J. Berry,
District Director

9/7/18
 (Date Mailed)

Enclosures(s)

cc:

Daniel Driesen
Associate General Counsel
NYU LANGONE MEDICAL CENTER
One Park Avenue
16th Floor
New York, NY 10016